

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO  
RICO,

as representative of

THE COMMONWEALTH OF PUERTO  
RICO, et al.,

Debtors.<sup>1</sup>

PROMESA

Title III

Case No. 17-03283 (LTS)

(Jointly Administered)

**SUPPLEMENTAL OBJECTION OF NATIONAL PUBLIC FINANCE GUARANTEE  
CORPORATION TO AMENDED REPORT AND RECOMMENDATION  
OF THE MEDIATION TEAM (ECF NO. 10756)**

National Public Finance Guarantee Corporation (“National”) hereby submits this Supplemental Objection to the Amended Report and Recommendation of the Mediation Team (ECF No. 10756, the “Amended Report”), and respectfully states as follows:

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

1. National,<sup>2</sup> along with several other Objectors,<sup>3</sup> is concurrently filing a Joint Objection to the Amended Report (the “Joint Objection”). Among other things, the Joint Objection sets forth numerous objections to the Mediation Team’s Amended Report and urges the Court to reject its recommendations. This Supplemental Objection addresses National’s specific objections to the Mediation Team’s proposed stay of the GO/PBA litigation (Amended Report at 9–10).

2. National submits that the schedule for GO/PBA litigation entered by the Court on December 19, 2019 (ECF No. 9619) should proceed without any further delay, for several reasons. *First*, the GO/PBA litigation implicates important issues that should be resolved, not deferred. This includes, for example, challenges to the validity of certain bonds, challenges to asserted liens, and a number of adversary proceedings. *See generally* ECF No. 9619. In fact, the new proposed plan of adjustment would allocate significant value to recently issued GO bonds<sup>4</sup>—the same bonds that the FOMB, in litigation, vehemently contends are invalid. That contention should be litigated sooner rather than later. Although this Court previously adopted detailed schedules to move the litigation of these issues forward, *see id.*, the Mediation Team purports to sweep these efforts aside, deeming them nothing more than “a waste of both judicial and party resources,” Amended Report at 9. Respectfully, the Court should consider all affected parties’ views as to whether pushing necessary litigation toward ultimate resolution somehow would be a “waste.” National, for one, strongly believes that it would not be. Litigation has been stayed for too long, particularly in light

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<sup>2</sup> National is one of the largest individual GO/PBA creditors. As of 2019 year-end, National holds or insures approximately \$843 million in pre-2011 GO bonds and \$184 million in PBA bonds.

<sup>3</sup> Capitalized terms not otherwise defined in this Supplemental Objection shall have the meanings ascribed to them in the Joint Objection.

<sup>4</sup> What’s more, the recoveries on recently issued GO bonds increased disproportionately as between the current and prior proposed plan—almost doubling for the 2014 GO bonds.

of the FOMB's unwillingness to engage with Puerto Rico's long-term stakeholders, like National, and its embrace of extreme litigation positions. It is time to put those positions to the test.

3. *Second*, the Amended Report's justification for staying the GO/PBA litigation—the yet-to-be-filed proposed plan—is not tenable.<sup>5</sup> Creditor support for this proposed plan remains limited; indeed, it is actively opposed by many creditors, including all the monoline insurers. This is not surprising in light of the unfair process that produced the proposed plan, wherein only “certain parties” were included in crucial phases of the negotiations. Amended Report at 8. Those who *do* support the proposed plan are primarily hedge funds seeking to turn a quick profit at the expense of monoline insurers, retail bondholders, and other Puerto Rico stakeholders with a long-term interest in the island's future. Tellingly, not even the Commonwealth supports the proposed plan. It therefore provides no legitimate justification for further delay.

4. *Third*, as discussed in the Joint Objection, the Court will need to resolve crucial gating issues before the plan confirmation process should be initiated. Given the extreme positions taken by the FOMB (as reflected in materials that have been released regarding the proposed plan), it is unlikely that the to-be-filed plan—which will provoke strong opposition—warrants the expenditure of the time and resources involved in proceeding toward attempting confirmation. Indeed, because the outcome of many of these gating issues will drive the content of any eventual plan, the Mediation Team's proposal to stay the GO/PBA litigation pending plan confirmation puts the cart before the horse and wastes precious judicial and party resources.

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<sup>5</sup> See Amended Report at 10 (justifying setting aside the Court's schedules for the GO/PBA litigation by claiming that, “[i]f the Amended Plan is confirmed, no further litigation will be required and the pending litigation that was unstayed or contemplated by the Interim GO/PBA Order will be dismissed”); *id.* (acknowledging that, if the proposed plan is *not* confirmed, the parties to the GO/PBA litigation will be back at square one, or worse, because they will have to “work . . . to develop an agreed schedule to move forward”).

5. *Fourth*, the proposed stay of the GO/PBA litigation will last far too long, for many of the reasons discussed above. In addition, confirmation of the new plan by year-end is extremely unlikely and strongly militates against the Mediation Team's proposal to upend the existing GO/PBA litigation schedule.

6. In sum, the Mediation Team's requested stay of the GO/PBA litigation, if granted, would unduly delay the adjudication of important rights and steamroll over critical gating issues, all in a rush toward attempted confirmation of a plan that lacks the requisite support. For these reasons, National respectfully submits that the existing schedule established by this Court for the GO/PBA litigation should remain in place.

**RESPECTFULLY SUBMITTED**, in San Juan, Puerto Rico, February 21, 2020.

**WE HEREBY CERTIFY** that on this same date a true and exact copy of this objection was filed with the Clerk of Court using the CM/ECF system, which will notify a copy to counsel of record. Also, copy of this document will be notified via electronic mail to all case participants.

Dated: February 21, 2020  
San Juan, Puerto Rico

**ADSUAR MUÑOZ GOYCO  
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